



**Agency Rule Review  
Governor's Executive Order 11-01**

**April 13, 2011**

# Governor's Executive Order 11-01

- Issued January 4, 2011
- Suspended rulemaking for all state agencies
- Established Office of Fiscal Accountability and Regulatory Reform (OFARR) to review all rules before promulgation
- Required 90-day review of existing rules and regulations to determine whether any are duplicative or unnecessarily burdensome
- Established April 4 deadline to complete rule review and submit recommendations to Office of Fiscal Accountability and Regulatory Reform

# Executive Order 11-01 District Rule Review

- Rule review conducted by department managers and Office of Counsel
- Coordinated with Department of Environmental Protection and other water management districts
- 23 rule chapters
- 455 existing rules
  - 80% associated with Water Shortage; Environmental Resource, Water Use, Works of the District, Well Construction permitting
  - Remainder: exceptions to uniform rules, administrative, procedural, real estate

<u>Chapter No.</u>	<u>Chapter Title</u>	<u>Rule Count</u>
<a href="#">40E-0</a>	EXCEPTIONS TO THE UNIFORM RULES OF PROCEDURE	10
<a href="#">40E-1</a>	GENERAL AND PROCEDURAL (Formerly 16CA-1; 16K-1)	37
<a href="#">40E-2</a>	CONSUMPTIVE USE	17
<a href="#">40E-3</a>	WATER WELLS	28
<a href="#">40E-4</a>	ENVIRONMENTAL RESOURCE PERMITS	26
<a href="#">40E-5</a>	ARTIFICIAL RECHARGE	10
<a href="#">40E-6</a>	WORKS OR LANDS OF THE DISTRICT	21
<a href="#">40E-7</a>	MISCELLANEOUS PROVISIONS	42
<a href="#">40E-8</a>	MINIMUM FLOWS AND LEVELS	11
<a href="#">40E-9</a>	REAL PROPERTY ACQUISITION AND DISPOSAL	1
<a href="#">40E-10</a>	Water Reservations	5
<a href="#">40E-20</a>	GENERAL WATER USE PERMITS	14
<a href="#">40E-21</a>	WATER SHORTAGE PLAN	25
<a href="#">40E-22</a>	REGIONAL WATER SHORTAGE PLANS	17
<a href="#">40E-23</a>	CRITICAL WATER SUPPLY PROBLEM AREAS	6
<a href="#">40E-24</a>	MANDATORY YEAR-ROUND LANDSCAPE IRRIGATION MEASURES CONSERVATION MEASURES	6
<a href="#">40E-30</a>	GENERAL PERMITS FOR WATER WELLS	6
<a href="#">40E-40</a>	GENERAL ENVIRONMENTAL RESOURCE STANDARD PERMITS	19
<a href="#">40E-41</a>	SURFACE WATER MANAGEMENT BASIN AND RELATED CRITERIA	31
<a href="#">40E-61</a>	WORKS OF THE DISTRICT BASINS	16
<a href="#">40E-62</a>	WORKS AND LANDS OF THE DISTRICT MANAGEMENT PLANS	16
<a href="#">40E-63</a>	EVERGLADES PROGRAM	76
<a href="#">40E-400</a>	NO NOTICE AND NOTICED GENERAL ENVIRONMENTAL RESOURCE PERMITS	27



**Rule Chapter: 40E-24**

Chapter Title: MANDATORY YEAR-ROUND LANDSCAPE IRRIGATION MEASURES  
CONSERVATION MEASURES



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View Chapter:



**40E-24**

**View Individual Rules**

Click on the word icon to view the latest rule version. Or click on the rule number to see the detail of the rule.

Latest Version	Rule No.	Rule Title	Effective Date
	<a href="#">40E-24.011</a>	Policy and Purpose	3/15/2010
	<a href="#">40E-24.101</a>	Definitions	3/15/2010
	<a href="#">40E-24.201</a>	Year-Round Landscape Irrigation Conservation Measures	3/15/2010
	<a href="#">40E-24.301</a>	Local Government Option	3/15/2010
	<a href="#">40E-24.401</a>	Enforcement	3/15/2010
	<a href="#">40E-24.501</a>	Variances and Waivers	3/15/2010

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## Scope of Review

- Statutory authority
- Mandated by Statute
- Regulatory-related cost
- Less costly alternative
- Restate statutory language
- Discernible harm/damage to public if repealed
- Incorporate forms/materials
- Benefit from further revision
- Other problems, issues or notes

# Executive Order 11-01 Agency Rule Review Summary

- **South Florida Water Management District:**
  - 455 rules reviewed
  - 57 (or 12.5%) identified for repeal, includes 2 entire rule chapters
  - 69 identified for revision
- **Water Management Districts:**
  - 1,289 rules reviewed
  - 238 (or 18.5%) identified for repeal/deletion
  - 169 identified for revision
- **State Agencies:**
  - 11,469 rules reviewed
  - 1,683 (or 14.6%) identified for repeal/deletion
  - 1,451 identified for revision

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## Procedural Rules

- **Exceptions to the Uniform Rules of Procedure (40E-0)**
  - Repeal 7 of 10 rules
  - Duplicative; no longer necessary
- **General and Procedural (40E-1)**
  - Repeal 15 of 37 rules
  - Restates statute; rules not required
  - Amend to incorporate statutory delegation of permitting authority to Executive Director; reduce publication and processing costs



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## Water Use Rules

### ■ **Consumptive Use (40E-2)**

- Repeal 1 of 17 rules
- “Temporary Permits” rule – in statute; not used

### ■ **General Water Use Permits (40E-20)**

- Repeal 3 of 14 rules
- No longer needed – duplicative, intent covered elsewhere in rule
- Revise delegation of authority for issuing permits

### ■ **Water Shortage Plan (40E-21)**

- Repeal 3 of 25 rules
- Outdated; no longer needed, covered elsewhere in rule
- Revise to reduce notice costs for water shortage declaration (e-mail and Internet posting)

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## Water Use Rules

- **Regional Water Shortage Plans (40E-22)**
  - Repeal 6 of 17 rules
  - Not used or covered elsewhere in rule
- **Critical Water Supply Problem Areas (40E-23)**
  - Repeal in entirety (6 rules)
  - Outdated
- **Year-Round Landscape Irrigation Measures (40E-24)**
  - Unchanged

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## Water Well Rules

### ■ **Water Wells (40E-3)**

- Repeal 1 of 28 rules
- “Review of Water Well Permit Applications” – not necessary
- Revise to ensure consistency with DEP’s updated rules

### ■ **General Permits for Water Wells (40E-30)**

- Repeal in entirety (6 rules)
- Not used; already covered by 40E-3

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## Environmental Resource Permitting Rules

- **Environmental Resource Permits (40E-4)**
  - Revision of permit thresholds under consideration to streamline and expedite the permitting process
  - Amend to reduce permit application costs
- **General Environmental Resource Standard Permits (40E-40)**
  - Review thresholds and combine substantive portions with 40E-4; eliminating need for separate chapter (19 rules)
- **Surface Water Management Basins (40E-41)**
  - Unchanged
- **No Notice and Noticed General Environmental Resource Permits (40E-400)**
  - Unchanged



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## Works of the District Rules

- **Works or Lands of the District (40E-6)**
  - Unchanged
- **Works of the District Basins (40E-61)**
  - Lake Okeechobee Works of the District Rule
  - Requires revisions
  - Rulemaking initiated to update rule in accordance with Lake Okeechobee Protection Act (TMDL requirements and procedural updates)

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## Works of the District Rules

- **Works and Lands of the District Management Plans (40E-62)**
  - C-18 canal rule
  - Substantive portions of rule to be incorporated into Works of the District (40E-6)
  - Eliminates need for separate chapter (16 rules)
- **Everglades Program (40E-63)**
  - Repeal 5 of 64 rules
  - “Make-up Water Rule” – not required longer to be implemented by rule; provisions provided in Statute

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## Others

- **Artificial Recharge (40E-5)**
  - Unchanged
- **Miscellaneous Provisions (40E-7)**
  - Repeal 4 of 42 rules
  - Obsolete procurement rules; rule development underway to adopt new procurement rules per Joint Administrative Procedures Committee
  - Implementable by District policies and procedures
- **Minimum Flows and Levels (40E-8)**
  - Update to prevention and recovery strategies
- **Real Property Acquisition and Disposal (40E-9)**
- **Water Reservations (40E-10)**
  - Unchanged

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## Next Steps

### ■ **Regulatory Plan**

- Develop a regulatory plan by July 1
- Identify and describe each rule that agency expects to begin promulgating within next 12 months
- Will include rules for repeal and revision, and rules currently under development
- Coordination with DEP/other Water Management Districts
- Governing Board (May/June)
- Submit Regulatory Plan to Office of Fiscal Accountability and Regulatory Reform

### ■ **Authorize Rulemaking**

- Authorization of rulemaking to repeal, amend or adopt rules requires Governing Board approval



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My plan for accountability budgeting will help you exercise your right to hold government accountable. We will adopt

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**State of Florida – Governor Rick Scott  
Status of Executive Order 11-01, Section 5  
Analysis to Identify Rules That Are Duplicative, Unnecessarily Burdensome, or No Longer Necessary**

Agencies	Total # of Rules	Rule/Subsection Analyses Started	Rule/Subsection Analyses Completed	Rules/Subsections Identified for Repeal/Deletion	Rules/Subsections Identified for Revision	Statutes Identified for Possible Revision
<a href="#">Agency for Enterprise Information Technology</a>	24	24	24	0	0	0
<a href="#">Agency for Health Care Administration</a>	534	525	534	109	40	26
<a href="#">Board of Trustees of Internal Improvement Trust Fund</a>	88	91	88	9	21	0
<a href="#">Department of Business and Professional Regulation</a>	1633	3025	1618	491	210	13
<a href="#">Department of Children and Family Services</a>	693	810	688	32	384	23
<a href="#">Department of Community Affairs</a>	435	415	395	56	84	16
<a href="#">Department of Corrections</a>	235	237	235	0	0	0
<a href="#">Department of Elder Affairs</a>	133	136	133	16	26	1
<a href="#">Department of Environmental Protection</a>	1792	2051	1792	441	278	62
<a href="#">Department of Health</a>	2468	2586	2468	121	99	20
<a href="#">Department of Juvenile Justice</a>	137	137	137	0	0	0
<a href="#">Department of Management Services</a>	952	933	934	110	74	0
<a href="#">Department of Military Affairs</a>	3	0	3	0	0	0
<a href="#">Department of State</a>	165	172	165	7	9	3
<a href="#">Department of the Lottery</a>	250	254	250	7	40	0

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## Agency List

### Water Management Districts Rules

Divisions/Boards	Total # of Rules	Rule/Subsection Analyses Started	Rule/Subsection Analyses Completed	Rules/Subsections Identified for Repeal/Deletion	Rules/Subsections Identified for Revision	Statutes Identified for Possible Revision
<a href="#">Northwest Florida Water Management District</a>	148	156	148	29	41	0
<a href="#">South Florida Water Management District</a>	455	455	455	58	75	0
<a href="#">Southwest Florida Water Management District</a>	200	238	200	42	35	1
<a href="#">St. Johns River Water Management District</a>	271	309	271	65	12	1
<a href="#">Suwannee River Water Management District</a>	215	215	215	44	6	2
<b>Grand Totals</b>	<b>1289</b>	<b>1373</b>	<b>1289</b>	<b>238</b>	<b>169</b>	<b>4</b>

Note: All totals are preliminary until April 4, 2011.

For additional detail on specific rules, please see the Florida Administrative Code and Florida Administrative Weekly at <https://www.flrules.org/>.

Contact the Governor's Office of Fiscal Accountability and Regulatory Reform at [Reg.reform@myflorida.com](mailto:Reg.reform@myflorida.com) or (850) 487-1880

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State of Florida – Governor Rick Scott  
 Status of Executive Order 11-01, Section 5  
 Analysis to Identify Rules That Are Duplicative, Unnecessarily Burdensome, or No Longer Necessary

## Agency List

### Chapters for South Florida Water Management District

Chapter Number	Chapter Name	Total # of Rules	Rule/Subsection Analyses Started	Rule/Subsection Analyses Completed	Rules/Subsections Identified for Repeal/Deletion	Rules/Subsections Identified for Revision	Statutes Identified for Possible Revision
<a href="#">40E-0</a>	EXCEPTIONS TO THE UNIFORM RULES OF PROCEDURE	10	10	10	7	1	0
<a href="#">40E-1</a>	GENERAL AND PROCEDURAL (Formerly 16CA-1; 16K-1)	37	37	37	15	4	0
<a href="#">40E-2</a>	CONSUMPTIVE USE	17	17	17	1	0	0
<a href="#">40E-3</a>	WATER WELLS	28	28	28	1	4	0
<a href="#">40E-4</a>	ENVIRONMENTAL RESOURCE PERMITS	26	26	26	0	4	0
<a href="#">40E-5</a>	ARTIFICIAL RECHARGE	10	10	10	0	0	0
<a href="#">40E-6</a>	WORKS OR LANDS OF THE DISTRICT	21	21	21	0	0	0
<a href="#">40E-7</a>	MISCELLANEOUS PROVISIONS	42	42	42	4	0	0
<a href="#">40E-8</a>	MINIMUM FLOWS AND LEVELS	11	11	11	0	1	0
<a href="#">40E-9</a>	REAL PROPERTY ACQUISITION AND DISPOSAL	1	1	1	0	0	0





**Questions?**